

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:11-CT-3009-FL

JOHNNY WESLEY ALLDRED, III,)

Plaintiff,)

v.)

ORDER

ALVIN W. KELLER, ROBERT C.)

LEWIS, BETTY BROWN, JOSEPH B.)

HALL, TERRI STRATTON, JACKIE)

PARKER, SECRETARY REUBEN)

YOUNG, CATHY MOORE, and)

SANDRA LASDEN,)

Defendants.)

Plaintiff, a state inmate, filed this action, through counsel North Carolina Prisoner Legal Services, pursuant to 42 U.S.C. § 1983, against defendants Alvin W. Keller, Robert C. Lewis, Betty Brown, Joseph B. Hall, Terri Stratton, Jackie Parker, Secretary Reuben Young, Cathy Moore, and Sandra Lasden. On May 22, 2014, plaintiff and defendants Cathy Moore and Sandra Lasden filed a stipulation of dismissal, and Cathy Moore and Sandra Lasden were dismissed from this action with prejudice. Plaintiff now is before the court, both through counsel and *pro se*, moving to dismiss the remaining defendants and claims from this action with prejudice (DE 106, 107).

An action may be dismissed voluntarily by plaintiff without order of the court by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1). Otherwise an action shall not be dismissed on

the plaintiff's request except upon an order of the court. See Fed. R.Civ. P. 41(a)(2). At this point in the proceedings, defendants have filed an answer to plaintiff's complaint. Accordingly, the complaint may only be voluntarily dismissed pursuant to Rule 41(a)(2), which permits voluntary dismissal "on terms the court considers proper." A plaintiff's motion under Rule 41(a)(2) should not be denied absent substantial prejudice to the respondent. S.A. Andes v. Versant Corp., 788 F.2d 1033, 1036 (4th Cir. 1986).

Plaintiff seeks to dismiss the remaining defendants and claims because he no longer wishes to proceed with his case. There is no prejudice to defendants because plaintiff seeks dismissal with prejudice. Accordingly, plaintiff's motions for voluntary dismissal pursuant to Rule 41(a)(2) (DE 106, 107) are GRANTED, and the action is DISMISSED with prejudice. All pending motions are DENIED as MOOT. The Clerk of Court is DIRECTED to close this case.

SO ORDERED, this 19th day of June, 2014.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style.

LOUISE W. FLANAGAN
United States District Judge